

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>LARRY HADLEY,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>C.A. No. 22-212 Erie</b>
<b>v.</b>	)	
	)	<b>District Judge Susan Paradise Baxter</b>
<b>MR. OBERLANDER, et al.,</b>	)	<b>Magistrate Judge Richard A. Lanzillo</b>
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

Plaintiff Larry Hadley, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania, initiated this civil rights action by filing a motion to proceed *in forma pauperis* (“ifp motion”), accompanied by a *pro se* complaint against three staff members at SCI-Forest: Superintendent Mr. Oberlander, Kitchen Manager Mr. Dittman, and Kitchen Supervisor Mr. Shipe. Plaintiff’s claim arises from a slip and fall accident he suffered while working in the kitchen at SCI-Forest, which caused him to suffer an injury that required two surgeries. Plaintiff alleges that Defendants were deliberately indifferent to his safety in violation of the eighth amendment to the United States Constitution. This matter was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On August 5, 2022, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation (“R&R”) recommending that Plaintiff’s complaint be dismissed as legally frivolous, pursuant to 28 U.S.C. § 1915(e)(2), because Plaintiff has failed to state a claim upon


which relief may be granted [ECF No. 7]. In particular, Judge Lanzillo concluded that Plaintiff's claim sounds in negligence and does not rise to the level of an actionable constitutional violation under 42 U.S.C. § 1983. Nonetheless, Judge Lanzillo recommends that the complaint be dismissed without prejudice to Plaintiff's right to bring a negligence action in state court based on the same allegations. Plaintiff has since failed to file timely objections to the R&R.

After *de novo* review of the complaint and documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 24<sup>th</sup> day of August, 2022;

IT IS HEREBY ORDERED that Plaintiff's complaint be DISMISSED as legally frivolous pursuant to 28 U.S.C. § 1915(e)(2), without prejudice to Plaintiff's right to file a separate state court action based upon the same allegations if he so desires. IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to Proceed in forma pauperis, [ECF No. 3] is GRANTED. The report and recommendation of Magistrate Judge Lanzillo, issued August 5, 2022 [ECF No. 7], is adopted as the opinion of the court.

The Clerk is directed to mark this case CLOSED.

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
U.S. Magistrate Judge  
  
all parties of record